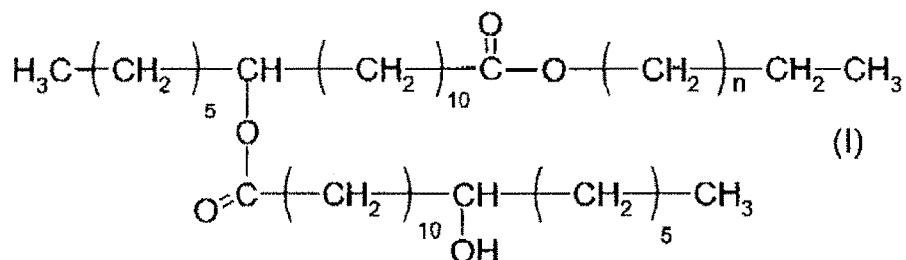


### REMARKS

In the Office Action, further to the Restriction and Election of Species Requirement dated December 14, 2006, the Examiner contends that Applicants' response dated January 11, 2007, was not fully responsive. See Mar. 30, 2007, Office Action at 2. Specifically, the Examiner contends that Applicants did not elect a single species of a wax of formula I:



wherein n is an integer ranging from 18 to 38. See *id.* The Examiner thus requires that Applicants select a specific value for integer n. See *id.* Applicants respectfully traverse this election requirement.

Kester Wax K 82 P is an example of a wax of formula I. See Specification as-filed at page 8, ¶ [036]. The Product Data Sheet for KESTERWAX K82P ("Data Sheet"), attached hereto, teaches that it "was created to mimic the complex fraction found in beeswax" and "contains a range of hydroxyl polyesters with an average chain length of 66 carbon atoms . . . ." Data Sheet at first paragraph. In fact, the INCI name for KESTERWAX K82P is "synthetic beeswax." See Data Sheet. Thus, like natural beeswax, Kester Wax K 82 P (synthetic beeswax) is a mixture of different components having different carbon chain lengths.

Requiring Applicants to select a specific value for integer n for the wax of formula I (e.g., Kester Wax K 82 P, a synthetic beeswax) is like requiring Applicants to elect a single component of natural beeswax for prosecution. Because no such requirement would exist for natural beeswax, Applicants respectfully submit that the same requirement should not exist for the present application for synthetic beeswax. To require such an election in this case is unduly restrictive and does not accurately reflect the practical realities of the elected synthetic wax.

Further, Applicants respectfully traverse the election requirement of a specific value for integer n, at least because the Examiner has failed to show that a serious burden exists to examine all of the possible values for integer n. To make a proper requirement for an election of species the Examiner must, inter alia, show that the search and examination of a claim would impose a serious burden on the Office because it embraces an unreasonable number of species. See M.P.E.P. § 803.02. Here, the Examiner has provided no reasons or evidence on the record to substantiate the election requirement of a specific value for integer n, let alone how examination of all the possible values for n would imposed a serious burden. Thus, there is truly no burden on the Examiner to examine all the possible values for n.

In view of the above, Applicants respectfully submit that the election requirement is in error and should be withdrawn.

However, in order to be fully responsive, Applicants elect, with traverse, an average value of 28 for n.

If the Examiner chooses to maintain the election requirement of a specific value for integer n, Applicants expect the Examiner, if the specific value for integer n (i.e.,

average value of 28) is found allowable, to continue to examine the full scope of the elected subject matter to the extent necessary to determine the patentability thereof, *i.e.*, extending the search to a "reasonable" number of the non-elected species, as is the duty according to M.P.E.P. § 803.02 and 35 U.S.C. § 121.

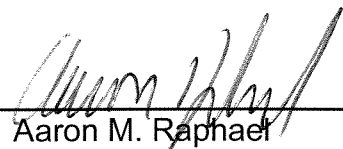
If there is any fee due in connection with the filing of this Statement, please charge the fee to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Dated: July 30, 2007

By: \_\_\_\_\_

  
Aaron M. Raphael  
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**Attachment:** KESTERWAX K82P, Product Data Sheet

# JAN DEKKER SENSORIAL INGREDIENTS

## Product Data Sheet

### KESTERWAX K82P

This specialty wax was created to mimic the complex fraction found in beeswax, which gives beeswax its unique plastic properties. KESTERWAX K82P contains a range of hydroxy polyesters and is manufactured from botanical fatty acids and synthetic fatty alcohols.

KESTERWAX K82P gels most cosmetic oils showing good oil retention. Incorporating KESTERWAX K82P in stick formulations improves film forming and plasticity. It suppresses the crystallisation behaviour of waxes like castor wax. In combination with high melting waxes KESTERWAX K82P can be used to increase the softening point of sticks. Because of its special plasticizing properties the proportion of hard waxes in a product can be increased. KESTERWAX K82P is compatible with anorganic pigments due to its polarity. At room temperature this wax is very soft, tacky and pliable, despite its high melting point.

JD art. no.:	99090
INCI name:	SYNTHETIC BEESWAX
CAS no:	71243-51-1
EINECS no:	275-286-5

#### Specifications

Appearance:	slabs
Colour:	light yellow
Congealing point:	78 – 84°C
Acid value:	< 5 mg KOH/g
Saponification value:	86 – 98 mg KOH/g
Colour (30% in IPM, Lovibond yellow, 1"):	< 2.0
Penetration at 25°C: (100 g, 5 s, 25°C):	36 – 58
Hydroxyl value:	48 – 68

#### Application:

Suggested applications for KESTERWAX K82P are e.g. sticks and emulsions.

#### Storage and shelf life

This product should be stored in a cool (< 25°C) place in closed containers. Shelf life is 36 months when stored under the above-mentioned conditions in original unopened packaging.

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B A S I C S F O R S U C C E S S